

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0276-AIR-E **TCEQ ID:** RN100621002 **CASE NO.:** 32767
RESPONDENT NAME: Brandom Southwest, Ltd. dba Brandom Cabinets

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Brandom Cabinets, 400 Hawkins Street, Hillsboro, Hill County</p> <p>TYPE OF OPERATION: Cabinet production facility</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: No complaints were received. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 18, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Audra L. Ruble, Enforcement Division, Enforcement Team 4, R-14, (361) 825-8931; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Andy Collins, President, Brandom Southwest, Ltd., 402 Hawkins Street, Hillsboro, Texas 76645 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: November 28, 2006</p> <p>Date of NOE Relating to this Case: January 26, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation. Four violations were documented. AIR</p> <p>1) Failed to comply with the total annual emission rate limits [30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and (c); Air Permit No. 20883, Special Condition No. 4D; and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Specifically, reported emissions from October 2005 to September 2006 were 120.08 tons per year ("tpy") of volatile organic compounds ("VOCs") with a permit limit of 99.12 tpy.</p> <p>2) Failed to meet the representations and conditions of Air Permit No. 20883 [30 TEX. ADMIN. CODE § 116.116(a)(1); Air Permit No. 20883; and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Specifically, actual hours of operation exceeded those represented in the permit application.</p> <p>3) Failed to comply with record keeping requirements of Air Permit No. 20883 [30 TEX. ADMIN. CODE § 116.115(c); Air Permit No. 20883, Special Condition No. 6(C)(2) and (D); and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Specifically, records were not kept indicating a rolling 12-consecutive month total for all air contaminant emissions and in tpy of hazardous air pollutants for the previous 12-consecutive months.</p> <p>4) Failed to obtain a federal operating permit [30 TEX. ADMIN. CODE § 122.121 and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b)]. Specifically, Brandom Cabinets reported emissions over 100 tons of VOCs for the period of October 2005 to September 2006 and continued to operate without authorization.</p>	<p>Total Assessed: \$6,300</p> <p>Total Deferred: \$1,260 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$5,040</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, certify compliance with the operating and record keeping requirements of Air Permit No. 20883;</p> <p>b. Within 60 days after the effective date of this Agreed Order, either:</p> <p>i. Demonstrate to the Commission that the Plant's potential to emit does not meet the requirements to obtain a federal operating permit; or</p> <p>ii. Submit a federal operating permit application as described by 30 TEX. ADMIN. CODE § 122.130(a).</p> <p>c. If a federal operating permit application is submitted in accordance with Ordering Provision No. 2.b.ii., then:</p> <p>i. Respond completely and adequately, as determined by the Air Permits Division, to all letters requesting information concerning any Operating Permit application within 30 days of the date of such letters, or by any other deadline specified in writing; and</p> <p>ii. Within 150 days after submittal of the federal operating permit application, certify compliance with Commission rules regarding authorization to operate a source of air emissions under the Operating Permits program or cease operations until appropriate authorization is obtained.</p> <p>d. Written certification required by Ordering Provisions a. and c.ii., shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

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Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

TCEQ

DATES	Assigned	29-Jan-2007
	PCW	26-Feb-2007
	Screening	22-Feb-2007
	EPA Due	9-Oct-2007

RESPONDENT/FACILITY INFORMATION	
Respondent	Brandom Southwest, Ltd. dba Brandom Cabinets
Reg. Ent. Ref. No.	RN100621002
Facility/Site Region	9-Waco
Major/Minor Source	Major

CASE INFORMATION	
Enf./Case ID No.	32767
Docket No.	2007-0276-AIR-E
Media Program(s)	Air Quality
Multi-Media	
Admin. Penalty \$	Limit Minimum \$0 Maximum \$10,000
No. of Violations	3
Order Type	1660
Enf. Coordinator	Audra L. Ruble
EC's Team	EnforcementTeam 5

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$6,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$300
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Notes The Respondent has received one previous NOV for the same or similar violations in the past five years.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$2,654
Approx. Cost of Compliance \$6,500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,300
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OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$6,300
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,300
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DEFERRAL	20% Reduction	Adjustment	-\$1,260
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$5,040
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Screening Date 22-Feb-2007

Docket No. 2007-0276-AIR-E

PCW

Respondent Brandom Southwest, Ltd. dba Brandom Cabinets

Policy Revision 2 (September 2002)

Case ID No. 32767

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100621002

Media [Statute] Air Quality

Enf. Coordinator Audra L. Ruble

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent has received one previous NOV for the same or similar violations in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 22-Feb-2007

Docket No. 2007-0276-AIR-E

PCW

Respondent Brandom Southwest, Ltd. dba Brandom Cabinets

Policy Revision 2 (September 2002)

Case ID No. 32767

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100621002

Media [Statute] Air Quality

Enf. Coordinator Audra L. Ruble

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.115(b)(2)(F) and (c) and § 116.116(a)(1); Air Permit No. 20883, Special Condition No. 4D; and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with the total annual emission rate limits and failure to meet the representations and conditions of Air Permit No. 20883, as documented during an investigation conducted on November 28, 2006. Specifically, reported emissions from October 2005 to September 2006 were 120.08 tons per year (tpy) of VOCs with a permit limit of 99.12 tpy. Additionally, actual hours of operation exceeded those represented in the permit application.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

The failure to maintain compliance with the emission limits has resulted in the release of an insignificant amount of pollutants which does not exceed protective levels.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$2,500

One annual event is recommended for the reporting period of October 2005 through September 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,787

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent Brandom Southwest, Ltd. dba Brandom Cabinets
Case ID No. 32767
Reg. Ent. Reference No. RN100621002
Media Air Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$1,500	1-Oct-2005	1-Sep-2007	1.9	\$144	n/a	\$144
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a permit amendment. Date required is initial date of noncompliance and Final date is when compliance is expected to be achieved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$1,500	1-Oct-2005	30-Sep-2006	1.9	\$144	\$1,500	\$1,644

Notes for AVOIDED costs

Estimated cost to research and implement usage of lower VOC products. Date required is initial date of noncompliance and Final date is the end of the reporting year.

Approx. Cost of Compliance

\$3,000

TOTAL

\$1,787

Screening Date 22-Feb-2007

Docket No. 2007-0276-AIR-E

PCW

Respondent Brandom Southwest, Ltd. dba Brandom Cabinets

Policy Revision 2 (September 2002)

Case ID No. 32767

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100621002

Media [Statute] Air Quality

Enf. Coordinator Audra L. Ruble

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 116.115(c); Air Permit No. 20883, Special Condition No. 6(C)(2) and (D); and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to comply with record keeping requirements of Air Permit No. 20883, as documented during an investigation conducted on November 28, 2006. Specifically, records were not kept indicating a rolling 12-consecutive month total for all air contaminant emissions and in tons per year of HAPs for the previous 12-consecutive months.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
		X	

Percent 10%

Matrix Notes

More than 30% but less than 70% of the requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

86 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$692

Violation Final Penalty Total \$1,050

This violation Final Assessed Penalty (adjusted for limits) \$1,050

Economic Benefit Worksheet

Respondent Brandom Southwest, Ltd. dba Brandom Cabinets
Case ID No. 32767
Reg. Ent. Reference No. RN100621002
Media Air Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$1,500	1-Oct-2005	1-Sep-2007	1.9	\$144	n/a	\$144
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to implement a record keeping system. Date required is the initial date of noncompliance and Final date is when compliance is expected to be achieved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)	\$500	1-Oct-2005	30-Sep-2006	1.9	\$48	\$500	\$548

Notes for AVOIDED costs

Estimated cost to maintain records according to permit requirements. Date required is the initial date of noncompliance and Final date is the end of the reporting year.

Approx. Cost of Compliance	\$2,000	TOTAL	\$692
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Screening Date 22-Feb-2007

Docket No. 2007-0276-AIR-E

PCW

Respondent Brandom Southwest, Ltd. dba Brandom Cabinets

Policy Revision 2 (September 2002)

Case ID No. 32767

PCW Revision January 9, 2007

Reg. Ent. Reference No. RN100621002

Media [Statute] Air Quality

Enf. Coordinator Audra L. Ruble

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 122.121 and Tex. Health & Safety Code §§ 382.054 and 382.085(b)

Violation Description

Failed to obtain a federal operating permit, as documented during an investigation conducted on November 28, 2006. Specifically, the plant reported emissions over 100 tons of VOCs and continued to operate without a federal operating permit.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

86 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$175

Violation Final Penalty Total \$2,625

This violation Final Assessed Penalty (adjusted for limits) \$2,625

Economic Benefit Worksheet

Respondent Brandom Southwest, Ltd. dba Brandom Cabinets
Case ID No. 32767
Reg. Ent. Reference No. RN100621002
Media Air Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$1,500	1-Oct-2005	1-Feb-2008	2.3	\$175	n/a	\$175
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a federal operating permit application. Date required is the initial date of operation and Final date is when compliance is expected to be achieved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,500

TOTAL

\$175

Compliance History

Customer/Respondent/Owner-Operator:	CN602789570	Brandom Southwest, Ltd	Classification: AVERAGE	Rating: 2.21
Regulated Entity:	RN100621002	BRANDOM SOUTHWEST DBA BRANDOM CABINETS	Classification: AVERAGE	Site Rating: 2.22
	AIR NEW SOURCE PERMITS	PERMIT		20883
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		HO0038A
	AIR NEW SOURCE PERMITS	AFS NUM		0009
ID Number(s):				
Location:	400 HAWKINS ST, HILLSBORO, TX, 76645		Rating Date: 9/1/2006 Repeat Violator: NO	
TCEQ Region:	REGION 09 - WACO			
Date Compliance History Prepared:	February 06, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 06, 2002 to February 06, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Audra Ruble Phone: 361-825-3126

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	12/07/2006	(533366)
2	02/14/2006	(454651)
3	07/16/2004	(282287)
4	09/22/2005	(432545)
5	07/29/2004	(282665)
6	06/23/2004	(275392)
7	01/26/2007	(515766)
8	09/28/2005	(432289)
9	04/09/2004	(268746)
10	02/20/2004	(261979)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 02/20/2004 (261979)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: PERMIT 20883

Description: Failure to keep records as specified in the facility's permit.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)(1)(B)

Rqmt Prov: PERMIT 20883

Description: Failure to amend Permit #20883 prior to adding and using new materials at the facility.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.116(b)(1)(A)

Rqmt Prov: PERMIT 20883

Description:	Failure to amend Permit #20883 prior to modifying spray booths.	
Self Report?	NO	Classification: Major
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(1)	
Rqmt Prov:	PERMIT 20883	
Description:	Failure to obtain authorization prior to construction and operation of a spray booth.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)	
Rqmt Prov:	PERMIT 20883	
Description:	Failure to comply with special condition #4 of permit #20883 by exceeding several material usage rates.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.110(a)(4)	
Description:	Failure to keep records of usage rates as required by condition #8 of PBR 106.433.	

- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BRANDOM SOUTHWEST, LTD. DBA
BRANDOM CABINETS
RN100621002**

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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-0276-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Brandom Southwest, Ltd. dba Brandom Cabinets ("Brandom Cabinets") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and Brandom Cabinets appear before the Commission and together stipulate that:

1. Brandom Cabinets owns and operates a cabinet production facility located at 400 Hawkins Street in Hillsboro, Hill County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and Brandom Cabinets agree that the Commission has jurisdiction to enter this Agreed Order, and that Brandom Cabinets is subject to the Commission's jurisdiction.
4. Brandom Cabinets received notice of the violations alleged in Section II ("Allegations") on or about January 31, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Brandom Cabinets of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Six Thousand Three Hundred Dollars (\$6,300) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Brandom Cabinets has paid Five Thousand Forty Dollars (\$5,040) of the administrative penalty and One Thousand Two Hundred Sixty Dollars (\$1,260) is deferred contingent upon Brandom Cabinets' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Brandom Cabinets fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Brandom Cabinets to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Brandom Cabinets have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Brandom Cabinets has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, Brandom Cabinets is alleged to have:

1. Failed to comply with the total annual emission rate limits, in violation of 30 TEX. ADMIN. CODE § 116.115(b)(2)(F) and (c); Air Permit No. 20883, Special Condition No. 4D; and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 28, 2006. Specifically, reported emissions from October 2005 to September 2006 were 120.08 tons per year ("tpy") of volatile organic compounds ("VOCs") with a permit limit of 99.12 tpy.
2. Failed to meet the representations and conditions of Air Permit No. 20883, in violation of 30 TEX. ADMIN. CODE § 116.116(a)(1); Air Permit No. 20883; and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 28, 2006. Specifically, actual hours of operation exceeded those represented in the permit application.
3. Failed to comply with record keeping requirements of Air Permit No. 20883, in violation of 30 TEX. ADMIN. CODE § 116.115(c); Air Permit No. 20883, Special Condition No. 6(C)(2) and (D); and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on November 28, 2006. Specifically, records were not kept indicating a rolling 12-consecutive month total for all air contaminant emissions and in tpy of hazardous air pollutants for the previous 12-consecutive months.

4. Failed to obtain a federal operating permit, in violation of 30 TEX. ADMIN. CODE § 122.121 and TEX. HEALTH & SAFETY CODE §§ 382.054 and 382.085(b), as documented during an investigation conducted on November 28, 2006. Specifically, Brandom Cabinets reported emissions over 100 tons of VOCs for the period of October 2005 to September 2006 and continued to operate without authorization.

III. DENIALS

Brandom Cabinets generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Brandom Cabinets pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Brandom Cabinets's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Brandom Southwest, Ltd. dba Brandom Cabinets, Docket No. 2007-0276-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that Brandom Cabinets shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, certify compliance with the operating and record keeping requirements of Air Permit No. 20883;
 - b. Within 60 days after the effective date of this Agreed Order, either:
 - i. Demonstrate to the Commission that the Plant's potential to emit does not meet the requirements to obtain a federal operating permit; or
 - ii. Submit a federal operating permit application as described by 30 TEX. ADMIN. CODE § 122.130(a) to:

Air Permit Division, MC 162
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. If a federal operating permit application is submitted in accordance with Ordering Provision No. 2.b.ii., then:
 - i. Respond completely and adequately, as determined by the Air Permits Division,

to all letters requesting information concerning any Operating Permit application within 30 days of the date of such letters, or by any other deadline specified in writing; and

- ii. Within 150 days after submittal of the federal operating permit application, certify compliance with Commission rules regarding authorization to operate a source of air emissions under the Operating Permits program or cease operations until appropriate authorization is obtained.
- d. Written certification required by Ordering Provisions 2.a. and 2.c.ii. shall be as described below, and include detailed supporting documentation including photographs; receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Air Section, Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

- 3. The provisions of this Agreed Order shall apply to and be binding upon Brandom Cabinets. Brandom Cabinets is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
- 4. If Brandom Cabinets fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Brandom Cabinets' failure to comply is not a violation of this Agreed Order. Brandom Cabinets shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Brandom Cabinets shall notify the Executive Director within seven days after Brandom Cabinets becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Brandom Cabinets shall be made in writing to the Executive Director. Extensions are not effective until Brandom Cabinets receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Brandom Cabinets in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Brandom Cabinets, or three days after the date on which the Commission mails notice of the Order to Brandom Cabinets, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

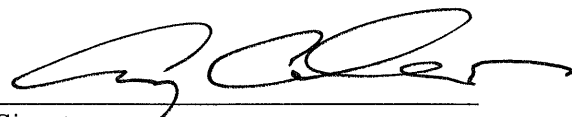
8/20/2007
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

4/10/07
Date

ANDY COLLINS

Name (Printed or typed)
Authorized Representative of
Brandom Southwest, Ltd. dba Brandom Cabinets

PRESIDENT

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

